In the High Court of Punjab and Haryana at Chandigarh.

Civil Writ Petition No.9843 of 2007.

Date of decision:6.7.2007.

Joginder Pal

...Petitioner.

Versus

State of Punjab and others.

...Respondents.

...

Coram: Hon'ble Mr. Justice Ashutosh Mohunta

Hon'ble Mr. Justice S. N. Aggarwal.

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Present: Mr.Maninder Arora Advocate for the petitioner.

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Judgment.

S. N. Aggarwal, J.

Joginder Pal son of Nanak Chand petitioner was tenant on the land owned by Amrit Lal Sood, respondent No.2. The proforma respondents were the other legal heirs of said Nanak Chand. Amrit Lal Sood, respondent No.2 filed an ejectment petition under Section 9(1) of the Punjab Security of Land Tenures Act,1953 for eviction of the petitioner and proforma respondents on the ground of non payment of rent and that the tenants used the land in such a manner which has rendered the same unfit.

The petitioner and other proforma respondents contested the case.

However, the ejectment petition filed by Amrit Lal Sood, respondent was accepted by the Assistant Collector Ist Grade, Hoshiarpur vide order dated 07.11.2002 on the ground of non payment of rent as well as on the ground that the tenants have rendered the land unfit for cultivation.

The petitioner and the other proforma respondents filed an appeal against this order before the Collector, Hoshiarpur (Deputy Commissioner,Hoshiarpur) but the said appeal was dismissed by the Collector vide order dated 31.12.2003.

The petitioner filed revision petition before the Commissioner (Appeals), Jalandhar. It was also dismissed on 7.7.2005 (Annexure P-3).

The petitioner filed Revision Petition before the Financial Commissioner (Punjab), Chandigarh but it was also dismissed on 10.1.2006 (Annexure P-4).

The review petition filed by the petitioner against the order passed by the Financial Commissioner, Punjab was also dismissed in default on 18.1.2006. The petitioner had filed an application for restoration of the review petition which is pending for 11.7.2007. However, Amrit Lal Sood respondent also filed execution application.

Hence, the present writ petition.

The submission of learned counsel for the petitioner was

that the petitioner was not given any opportunity to make the payment of rent.

The submissions have been considered and the orders under challenge have also been perused. The petitioner and the other proforma respondents had taken the plea before the revenue authorities that they have already paid the rent and that they were not running into arrears of rent but they could not substantiate the plea by leading any convincing evidence. As a result, the ejectment petition was accepted by the Assistant Collector Ist Grade on7.11.2002 on the ground of non payment of agreed rent/batai since Kharif (Sauni), 1997 and accordingly ejectment order was passed against the petitioner and the other proforma respondents. The perusal of order dated 31.12.2003 passed by the Collector, Hoshiarpur clearly reveals that the Collector had considered the submissions of the petitioner. The other orders passed by the Commissioner and the Financial Commissioner are also self speaking. Since the petitioner and the other proforma respondents had failed to pay the rent with effect from Kharif, 1997, therefore, they were liable to be ejected and the revenue authorities have rightly passed the order of ejectment against the petitioner and the other proforma respondents.

It was not shown to us if the petitioner had taken any such plea before the Collector, Commissioner or Financial Commissioner that no such opportunity was afforded to him by the Assistant Collector Ist Grade, Hoshiarpur to tender the arrears of rent. When no such plea

was taken by the petitioner before these Appellate/Revisional Authorities, he is estopped from raising this plea before this Court for the first time.

There is no merit in the present writ petition and the same is dismissed.

(S. N. Aggarwal)
Judge

July 6,2007. (Ashutosh Mohunta)
Jaggi Judge